

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY PAUL SMITH,

Plaintiff,

v.

MUNICIPALITY OF FRESNO COUNTY,
et al.,

Defendants.

No. 2:21-cv-1992 KJM AC P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, seeks relief under 42 U.S.C. § 1983. Case management is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 24, 2021, the U.S. Court of Appeals for the Ninth Circuit determined that plaintiff's fourth amended complaint contained cognizable Eighth Amendment deliberate indifference claims against defendants Bishop and Brockway. ECF No. 54 at 2. No viable claims against any of the other defendants named at that time were identified. The appellate court vacated in part the dismissal of this case for repeatedly failing to comply with pleading standards (see ECF No. 46 at 2), and remanded (ECF No. 54 at 3).

On June 25, 2021, the then-assigned magistrate judge found service of defendants Bishop and Brockway appropriate and ordered that they be served. ECF Nos. 55, 56. Thereafter, on July 16, 2021, Ninth Circuit's mandate issued and its judgment became final. ECF No. 58.

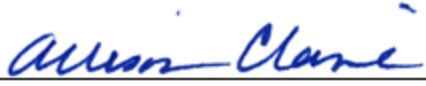
1 In light of these facts, all named defendants other than Bishop and Brockway have
2 effectively been dismissed by the Ninth Circuit. See Fed. R. Civ. P. 41(a)(2). Consequently, the
3 court will order the Clerk of Court to terminate those individuals on the docket.

4 Accordingly, IT IS HEREBY ORDERED that the following defendants are DISMISSED
5 pursuant to the Ninth Circuit's mandate (see ECF Nos. 54, 58) and pursuant to Federal Rule of
6 Civil Procedure 41(a)(2):

- 7 • Municipality of Fresno County;
- 8 • Fresno County Jail Staff;
- 9 • John Sutton;
- 10 • Daniel Paramo, and
- 11 • Debbie Asuncion.

12 IT IS FURTHER ORDERED that the Clerk of Court shall update the case caption of the
13 docket accordingly.

14 DATED: July 5, 2022


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE